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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,441	03/22/2001	Douglas D. Calaway	26303	4595

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EXAMINER

THOMPSON JR, FOREST

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 03/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/814,441

Applicant(s)

CALAWAY ET AL.

Examiner

Forest Thompson Jr.

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FW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action (See Paper #8). The text of those sections of Title 35, U.S. Code not otherwise provided in a prior Office action will be included in this action where appropriate.

2. This action is responsive to the amendment A filed on 12/12/2003 (see Paper #9). Applicant amended claims 1, 12, 15, 19, and 25-26, and added new claims 27-33. Claims 1-33 are pending.

3. Claims 1-33 have been examined.

Claim Rejections - 35 USC § 102

4. Claims 1-24 and 26 were rejected under 35 U.S.C. 102(e) as being anticipated by Alloul et al. (U.S. Patent No. 6,032,130). Applicant's amendment overcame the rejection of claims 1-11, 15-24 and 26. Therefore, examiner withdraws the rejection.

5. Claims 12-14 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Alloul et al. (U.S. Patent No. 6,032,130).

Claim 12. Alloul et al. discloses providing a software application on the storage medium to assist a buyer to make a purchase (col. 7 line 47 – col. 8 line 62).

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Claim 13. Alloul et al. discloses the software is further adapted to

- retrieve the identifier from the storage device (fig. 4; col. 10 lines 24-40); and
- display the identifier on the display device (col. 5 lines 36-41).

Claim 14. Alloul et al. discloses accessing the storage medium through the processor and initializing the software application (col. 7 line 47 – col. 8 line 63).

Claim 29: Alloul et al. teaches the software is further adapted to, if a selected identifier has been retained, issue a reminder to the user via the processor that the selected identifier has been retained (col. 6 lines 19-21) , in the presentation to the customer of stored purchase data each time the customer starts the purchasing application for another browsing session.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

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under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-11, 15-28, and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alloul et al., and further in view of Montague (U.S. Patent No. 6,298,332).

Claim 1. Alloul et al. discloses:

- establishing a communication between a processor and a removable electronic storage medium having at least one image of at least one item stored thereon; accessing an image of an item from the storage medium (col. 7 line 48 – col. 8 line 8);
- viewing the accessed item image on a display in communication with the processor (col. 4 lines 21-39);
- if desired, electronically selecting the item for purchase, an item selection automatically causing purchase data on the item to be stored on a writable memory device in communication with the processor (col. 8 lines 27-62).

Alloul et al. does not explicitly disclose, if purchase data have been stored, if desired, establishing a communication link between the processor and a remote vendor for order processing; nor if it is not desired to initiate order processing, storing the purchase data on a device accessible by the processor. However, Montague does disclose:

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- if purchase data have been stored, if desired, establishing a communication link between the processor and a remote vendor for order processing (col. 8 lines 55-60); and
- if it is not desired to initiate order processing, storing the purchase data on a device accessible by the processor (col. 8 line 66 – col. 9 line 25).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the teaching of Alloul et al. to explicitly teach , if purchase data have been stored, if desired, establishing a communication link between the processor and a remote vendor for order processing, and if it is not desired to initiate order processing, storing the purchase data on a device accessible by the processor, as taught by Montague, for the motivation of electronically initiating a purchase of an item using a computer on a network.

Claim 2. Alloul et al. discloses:

- at least one image comprises a three-dimensional image (Abstract), in the functionality of motion images that can present rotating or changing views of an object; and
- the viewing step comprises rotating the image in at least one dimension from a first aspect to a second aspect (Abstract), in the functionality of motion images that can present rotating or changing views of an object.

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Claim 3. Alloul et al. discloses one image comprises two sets of images, a first set comprising an image of an object and a second set comprising an image of a saleable item related to the object (Abstract; col. 1 lines 32-46).

Claim 4. Alloul et al. discloses the storage medium is selected from a group consisting of a read-only memory disk and a read-write disk (col. 4 lines 46-63).

Claim 5. Alloul et al. discloses the item image further comprises an electronic switch means activatable with an input device in communication with the processor for enabling the selection step (col. 5 lines 36-41).

Claim 6. Alloul et al. discloses:

- the electronic switch means comprises a defined region on the display (col. 5 lines 36-41); and
- the electronic selection step comprises using input means for pointing at and selecting the button (col. 5 lines 36-41).

Claim 7. Alloul et al. discloses:

- following the electronic selection step, accessing the writable memory device; viewing the purchase data (col. 5 line 58 – col. 6 line 36); and
- outputting the purchase data to a vendor to complete the purchase (col. 5 line 58 – col. 6 line 36).

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Claim 8. Alloul et al. discloses the purchase data outputting step comprises submitting the purchase data to the vendor in at least one of an electronic form, a hard-copy form, or via a personal communication device (col. 5 line 58 – col. 6 line 36).

Claim 9. Alloul et al. discloses, following the electronic selection step, of viewing the purchase data formatted as an order form (col. 5 lines 61-65).

Claim 10. Alloul et al. discloses revising an item of the purchase data to update the purchase data (col. 8 lines 37-39).

Claim 11. Alloul et al. discloses offering a plurality of choices of material for display, including a virtual-reality tour of a site, a set of still images, and promotional information (col. 1 lines 32-46).

Claim 15. Alloul et al. discloses:

- a removable electronic storage medium having at least one image of at least one item and a software application stored thereon (col. 7 line 47 – col. 8 line 63);
- a processor (col. 2 lines 20-26; col. 7 line 47 – col. 8 line 63);
- a storage device (col. 7 line 47 – col. 8 line 63),
- means for reading data from the storage medium (col. 7 line 47 – col. 8 line 63),
- an input device (col. 7 line 47 – col. 8 line 63), and
- a display device, all in electronic communication with the processor (col. 7 line 47 – col. 8 line 63);
- wherein the software application is adapted to run on the processor, display a menu on the display device comprising identifiers of the images, receive a selection of an identifier by a user through the input device, write a file on the storage device

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comprising the selected identifier, access an image of an item from the storage medium, display the accessed item image on the display device, receive a user selection of the item for purchase, and automatically store purchase data on the item on a writable memory device in communication with the processor (col. 7 line 47 – col. 9 line 25).

Alloul et al. does not explicitly disclose, if desired, establish a communication link between the processor and a remote vendor for order processing; nor if it is not desired to initiate order processing, store the purchase data on a device accessible by the processor. However, Montague does disclose:

- if desired, establish a communication link between the processor and a remote vendor for order processing (col. 8 lines 55-60); and
- if it is not desired to initiate order processing, store the purchase data on a device accessible by the processor (col. 8 line 66 – col. 9 line 25).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the teaching of Alloul et al. to explicitly teach, if desired, establishing a communication link between the processor and a remote vendor for order processing, and if it is not desired to initiate order processing, storing the purchase data on a device accessible by the processor, as taught by Montague, for the motivation of electronically initiating a purchase of an item using a computer on a network.

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Claim 16. Alloul et al. discloses establishing communication between the processor and an external network, the network having means for accessing a vendor of the item (col. 1 line 57 – col. 2 line 12).

Claim 17. Alloul et al. discloses the software application further is adapted to transfer the purchase data to the vendor via the network (col. 1 line 57 – col. 2 line 12).

Claim 18. Alloul et al. discloses outputting a hard copy of the purchase data (col. 10 lines 1-7).

Claim 19. Claim 19 is written as a software application and is essentially the same as claim 15; therefore, the same rejection is applied.

Claim 20. Alloul et al. discloses means for displaying a shopping cart comprising an item identifier and purchasing data associated therewith along with the visual images (col. 5 line 58 – col. 6 line 36).

Claim 21. Alloul et al. discloses displaying on the display device a complete order form comprising contents of the shopping cart (col. 5 line 58 – col. 6 line 36).

Claim 22. Alloul et al. discloses outputting the order form in at least one of an electronic form or a hard-copy form (col. 5 line 58 – col. 6 line 36).

Claim 23. Alloul et al. discloses displaying a menu of subsets of visual images and means for receiving a user selection of a subset from the input device, the user selection directing a display of the subset of images (col. 5 line 58 – col. 6 line 36), through the functionality of a client browsing catalogs and filling a shopping cart.

Claim 24. Alloul et al. discloses transferring a second software application to the storage device for permitting a subsequent access of the file from the storage device

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without the storage medium and the processor being in communication (col. 8 lines 9-26).

Claim 26. Claim 26 is written as a storage medium and is essentially the same as claim 15; therefore, the same rejection is applied.

Claim 27: Alloul et al. does not explicitly teach, if purchase data have been stored, establishing subsequent communication with the vendor and transmitting the purchase data to the vendor for order fulfillment. However, Montague teaches, if purchase data have been stored, establishing subsequent communication with the vendor and transmitting the purchase data to the vendor for order fulfillment (col. 8 line 55 – col. 9 line 36). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the teaching of Alloul et al. to explicitly, if purchase data have been stored, establish subsequent communication with the vendor and transmit the purchase data to the vendor for order fulfillment, as taught by Montague, for the motivation of electronically initiating a purchase of an item using a computer on a network.

Claim 28: Alloul et al. teaches, if purchase data have been stored, providing a reminder via the processor that pending purchase data remain on the device (col. 6 lines 19-21), in the presentation to the customer of stored purchase data each time the customer starts the purchasing application for another browsing session.

Claim 30: Claim 30 is written as a system and is essentially the same as claim 27; therefore, the same rejection is applied.

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Claim 31: Claim 31 is written as a method and is essentially the same as claim 29; therefore, the same rejection is applied.

Claim 32: Claim 32 is written as a software application and is the same as claim 27; therefore, the same rejection is applied.

Claim 33: Claim 33 is written as a software application and is essentially the same as claim 28; therefore, the same rejection is applied.

Response to Arguments

9. Applicant's arguments with respect to claims 1, 12, 15, 19, and 26-33 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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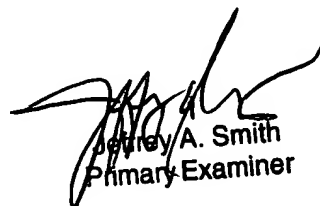
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Forest Thompson Jr. whose telephone number is (703) 306-5449. The examiner can normally be reached on 6:30 AM-3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FT
02 March 2004


Jeffrey A. Smith
Primary Examiner